

ARKANSAS SUPREME COURT

No. CR 07-1329

MARCUS BLUE
Appellant

v.

STATE OF ARKANSAS
Appellee

Opinion Delivered March 13, 2008

PRO SE MOTIONS FOR
EXTENSION OF TIME TO FILE
APPELLANT'S BRIEF AND FOR
ACCESS TO RECORD [CIRCUIT
COURT OF PULASKI COUNTY, CR
2006-155, HON. WILLARD
PROCTOR, JR., JUDGE]

APPEAL DISMISSED; MOTIONS
MOOT.

PER CURIAM

A jury found appellant Marcus Blue guilty of two counts of aggravated robbery, two counts of kidnapping, and two counts of theft of property, and sentenced him to an aggregate term of 420 months' imprisonment in the Arkansas Department of Correction. The Arkansas Court of Appeals affirmed. *Blue v. State*, CACR 06-1312 (Ark. App. Jun. 13, 2007). On October 3, 2007, appellant filed a petition for postconviction relief under Ark. R. Crim. P. 37.1, which the trial court denied. Appellant has lodged an appeal of that order in this court and brings pro se motions requesting an extension of time in which to file his brief and for access to the record to prepare his brief.

We dismiss the appeal because it is clear that appellant cannot prevail. This court has consistently held that an appeal of the denial of postconviction relief will not be permitted to go forward where it is clear that the appellant could not prevail. *Booth v. State*, 353 Ark. 119, 110 S.W.3d 759 (2003) (per curiam).

Where a conviction was appealed, Ark. R. Crim. P. 37.2(c) requires that the petition for postconviction relief must be filed within sixty days of the date the mandate issued. Here, the mandate from the decision by the court of appeals issued on August 1, 2007. The sixtieth day from that date, September 30, 2007, fell on a Sunday, so that appellant's petition for postconviction relief was to be filed no later than October 1, 2007. His petition was therefore two days late.

The time limitations imposed in Rule 37.2(c) are jurisdictional in nature, and the circuit court may not grant relief on an untimely petition. *Womack v. State*, 368 Ark. 341, ___ S.W.3d ___ (2006) (per curiam). Because the circuit court could not grant relief on the petition, it is clear that appellant cannot prevail in this appeal. We accordingly dismiss the appeal and the motions are therefore moot.

Appeal dismissed; motions moot.